

**Town of North Smithfield Planning Board
Kendall Dean School, 83 Green Street
Thursday, May 19, 2011, 7:00 PM**

The Chair called the meeting to order at 7:02 pm.

1. Roll Call

Present: Chair Scott Gibbs, Alex Biliouris, Gene Simone, Joe Cardello, Art Bassett. Absent: Dean Naylor, Dr. Lucien Benoit. Also present were Town Planner Bob Ericson and Town Solicitor Rick Nadeau.

2. Approval of Minutes: May 5, 2011

Mr. Biliouris made a motion to approve the minutes of May 5, 2011. Mr. Bassett seconded the motion, with all in favor.

3. Berthelette: Major Subdivision with Public Hearing Preliminary/Final Plan

Owner/Applicant: Gerard and Christine Berthelette

Location: Mendon Road and Middle Street, Assessor's Plat 3, Lot 286

Zoning: Urban Residential (RU-20)

Mr. Ericson updated the Board on the status of the application. A

frontage variance was needed and was granted by the Zoning Board in January. A sewer easement is needed, but the applicant would like to submit the draft of the agreement at Final Plan stage.

Attorney Eric Brainsky was present for the applicant. He explained his reasoning for waiting until Final Plan stage to submit the draft of the sewer easement agreement. He stated that sewer is not brought in until the Building Permit stage, so the extra time would allow the applicant to work with the neighbors on the easement agreement. Mr. Brainsky stated that the applicant does not plan to begin construction for at least a year, due to the current real estate market, and that under the upcoming changes in state law, the vesting period could be up to 4 years.

Mr. Cardello asked if the easement agreement could be drafted now since one of the benefits of granting the subdivision was that it would provide sewer access to two abutting properties. He also wanted the applicant to guarantee that an easement agreement would be made since it was part of the reason that the Board approved the Master Plan. Mr. Brainsky replied that the applicant will agree to a sewer easement and it can be made a condition of approval, but that until the building permit is granted, the sewer line will not be put in. He clarified that they are seeking a waiver on submitting the documents, not a waiver on creating an easement agreement.

The Chair opened the meeting to the public at 7:20 pm. David Hughes,

of 78 Middle Street questioned the tie-in to the Elizabeth Avenue sewer line, since it had not yet passed inspection. Mr. Brainsky stated that the sewer line has not yet been accepted by the Town, but that Russ Carpenter from the town's Sewer Department had written a letter that stated that if the Elizabeth Avenue sewer line is still not approved at the time of the subdivision and building stage, the Mendon Road tie-in will be available. Mr. Brainsky submitted Mr. Carpenter's letter to the Board.

No other members of the public wanted to speak to the Board. Mr. Simone made a motion to close the Public Hearing at 7:32 pm. Mr. Biliouris seconded the motion, with all in favor.

Mr. Simone made a motion that the Planning Board grant a waiver to Section 3-7(A)(1) Appendix A, Checklist 1 requirements B(3), B(4), B(5), B(8), B(9), B(10), D(10), D(11)(a), D(11)(b) of the Land Development and Subdivision Regulations. Mr. Biliouris seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 5-0.

Mr. Cardello made a motion to take a 5-minute recess at 7:39 pm. Mr. Bassett seconded the motion, with all in favor. The Chair called the meeting back to order at 7:44 pm.

Mr. Bassett made a motion that the Planning Board approve the Major

Subdivision for Gerard & Christine Berthelette, dated October, 2010, for AP 3, Lot 286, with the following conditions:

1. A sewer easement be drafted and accepted by the Town of North Smithfield to allow AP 3, Lots 170 and 71 access and ability to connect to a municipal sewer once constructed.

2. At the time of Final Plan Approval, Lot 2 as shown on the plan titled: Preliminary Plan, Major Subdivision, Existing Conditions Plan for Gerard & Christine M. Berthelette, Assessor's Plat 3, Lot 286, North Smithfield, Rhode Island October, 2010 Scale: 1 inch equals 40 feet, Revised 11/17/10, 2/10/11 & 4/5/11, shall require access to accepted municipal sewers on Middle Street or Fountain Street. If such access is not available at time of final approval, an easement shall be created and provide through Lot 1 granting access to the Mendon Road sewer at the time of final approval.

Mr. Biliouris seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 5-0.

Mr. Brainsky asked the Board to consider whether the Final Plan approval could be handled administratively. The Chair replied that because of the conditions placed on approval, he would like the Board to see the application again and vote on Final Plan approval.

4. Dowling Village Phase IV: Request by RAM Investments Associates LLC for extension of vesting rights for the Master Plan of

a Major Land Development Project.

The Chair stated that Mr. Biliouris is recused from this discussion.

Mr. Ericson explained to the Board that the master plan shall remain vested as long as it can be proved, to the satisfaction of the Planning Board, that work is proceeding on either the approval stages or on the construction of the development as shown in the approved master plan documents. Vesting shall extend to all information shown on the approved master plan documents. The investors would feel safer if the extension of vesting was granted for 1-2 years. Albert Brien, representing RAM Investments, addressed the Board.

Mr. Brien stated that the reasons for the extension requests were: 1) they are currently not able to physically access the site. Until Phases 1-3 are completed, they will not be able to begin construction on Phase 4, 2) the economy is not supporting building activity, and 3) the investors do not believe that the residential portion of the development will be built because of the wind turbine that was approved by the Zoning Board in lieu of 76 residential units. The Board and Mr. Brien discussed the probable new laws that will be passed by the state concerning vesting periods, but under an abundance of caution, Mr. Brien is asking the Board to vote on extending the vesting rights.

The Chair asked for clarification on the Zoning Board's action on the

wind turbine. He stated that his understanding was that the residential portion will still be built if the wind turbine is not constructed. Mr. Ericson confirmed this.

Mr. Nadeau stated that he does not think that the applicant needs the Board to take action on the request. Mr. Ericson noted the clause stating that construction must be proceeding “to the satisfaction of the Planning Board.” That concept creates financial risk. He suggested that the Board extend the vesting rights for two years. Mr. Nadeau stated that one year is enough and that they can come back if an extension is needed at that time.

Mr. Cardello made a motion to extend the Master Plan vesting rights for one year, until May 19, 2012. Mr. Simone seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 4-0.

5. Clifford: Minor Subdivision Preliminary Plan

Owner/Applicant: Estate of Nella Clifford, Michael Clifford, Executor

Location: Iron Mine Hill Rd., Assessor’s Plat 17, Lot 8

Zoning: Suburban Residential (RS-40)

Mr. Ericson reviewed the request for the Board. Michael Clifford is selling the state development rights for 18 acres of agricultural land under a federal program. As part of the agreement, the state allowed him to create two lots from the woodland area.

Mr. Clifford addressed the Board to state that he is the executor of his mother's estate. He would like to preserve her land as farmland. Wright's Farm is interested in buying the land to use for farming hay. The two frontage lots are excluded from the agreement with the state and the sale to Wright's Farm. This is advantageous to everyone. The Wrights do not want the woodland, and the larger percentage of farmland on the sale property helps with the state approval.

Mr. Biliouris asked about the two buildable lots being created and whether water runs onto the lots. Marc Nyberg was present with Mr. Clifford and explained that at development stage, swales will be needed and the water will be considered in the design of the septic system.

Mr. Biliouris made a motion to approve the Preliminary Plan for the Estate of Nella Clifford, AP 17, Lot 8. Mr. Simone seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 5-0.

Mr. Cardello made a motion that the Final Plan approval be handled administratively. Mr. Bassett seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 5-0.

6. Branconnier: Minor Subdivision Preliminary/Final Plan

Owner/Applicant: Robert Branconnier

Location: Christina Way, Assessor's Plat 14, Lots 37, 38 and 188

Zoning: Rural Agricultural (RA-65)

This request has been before the Board on two occasions. The applicants have been working on agreeing to a property line for the subdivision. The agreement is now in place and Mr. Nyberg is present to show the final placing of the property line on the plan. A waiver is needed on the internal angle greater than 200 degrees in order to review the request as a minor subdivision.

Mr. Biliouris made a motion that the Planning Board grant a waiver to Section 5-2(F)2 of the Land Development and Subdivision Regulations and to the additional checklist requirements of a minor subdivision plan application. Mr. Cardello seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 5-0.

Mr. Simone made a motion that the Planning Board approve the Minor Subdivision for Robert Branconnier, dated January 25, 2011, for AP 14, Lots 37, 38 & 188. Mr. Biliouris seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Simone, Mr. Cardello, Mr. Bassett. Motion passed, with a vote of 5-0.

7. Land Development and Subdivision Regulations: Review of requirements for minor subdivisions with no public improvements and Development Plan Review.

Mr. Ericson discussed an issue raised by the Clifford plan concerning requirements for minor subdivisions. He questioned why we need utility plans for a building envelope that has many options, including an autonomous house off the grid. He would consider the checklist requirement in this and other cases to be Not Applicable. He also asked the Board how they wanted to handle discussion with the applicant, and whether he should give the applicant his thoughts or wait until the applicant appears before the Board, so that the Board can give its opinion. The Chair stated that he doesn't see any need for changing the way it is currently handled. Mr. Cardello stated that Mr. Ericson can give his opinion to the applicant, as long as it is made clear that the Board may see things differently, or that other issues may come up before the Board.

The Board also held a discussion regarding Development Plan Review. Mr. Ericson said that Section 17.3 allows peer review. It also defines the Land Development and Subdivision Regulations Major Land Investment as the procedural method of review. He asked if we really need another public hearing and three stages of submittal. For example, he stated that the building and parking cover may be no larger than the plan already approved. The only new information is the landscaping plan. That example holds in almost all DPRs

emanating from non-residential subdivisions. In their discussion, the Board stated that for some projects, especially industrial plans, the build-out is usually maxed out in order to obtain DEM approval. Mr. Cardello stated that if the systems are not built verbatim, a water balance may not be maintained. He suggested that a range (minimum/maximum) be stated on the plan, and if changes go outside of this range, the plan needs to be put through the approval process.

8. Planning Update: Review of current events

Mr. Ericson stated that Coastal Recycling won the bid for the next fiscal year's trash contract in town, which means they will probably continue to use the former Tupperware building despite a potential \$105,000 in fines for unregistered vehicles. They are now required to register 4 vehicles by June 15 and get rid of the rest.

Mr. Biliouris asked about the issues concerning onsite wastewater treatment. Mr. Ericson stated that they were granted a permanent occupancy permit using only Port-a-Jons. Mr. Ericson stated that this is not good news for Branch Village, and will make use of a potential CDBG-DR grant much more problematic.

Mr. Cardello made a motion to adjourn at 8:40 pm. Mr. Biliouris seconded the motion, with all in favor.